

**CONTRACT FOR THE LEASE AND OPERATION OF AN AIRCRAFT
MAINTENANCE CONCESSION AT WARRENTON-FAUQUIER AIRPORT**

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CONTRACT FOR THE LEASE AND OPERATION OF AN AIRCRAFT MAINTENANCE CONCESSION AT WARRENTON-FAUQUIER AIRPORT

This LEASE AND CONCESSION CONTRACT (hereinafter "Contract") effective as of the 1st day of January 2010, by and between the **COUNTY OF FAUQUIER**, a political subdivision of the Commonwealth of Virginia, (hereinafter "County") and **AIRFIELD SERVICES, LLC**, a private for profit limited liability corporation organized and existing under and by virtue of the laws of the State of Virginia (hereinafter "Contractor");

WITNESSETH:

WHEREAS, the County owns and controls the Warrenton-Fauquier Airport (hereinafter "Airport") in the County of Fauquier, Commonwealth of Virginia; and

WHEREAS, the services of a Aircraft Maintenance Concession, Specialized Aviation Services Operation (hereinafter "SASO") to provide aircraft maintenance services as outlined in the Airport Minimum Standards.

WHEREAS, Contractor will establish and operate aircraft maintenance services at the Airport in accordance with the terms and conditions hereinafter contained;

NOW, THEREFORE, the parties hereto, for and in consideration of the premises and of the terms, conditions, and covenants contained in this Contract, the parties hereby agree as follows:

ARTICLE I. PERIOD OF THE CONTRACT

Section 1.1 TERM

The term of this Contract shall be for five (5) years and shall commence on the 1st day of January 2010, and continuing through 11:59 p.m. the 31st day of December 2015, (hereinafter "Termination Date"), subject to such earlier termination as provided herein. The County may renew this agreement with mutual agreement for one (1) additional five (5) year term by giving Contractor written notice of renewal at least three months prior to the expiration of the original term.

Section 1.2 EXPIRATION OF TERM

The parties agree that this contract shall expire at 11:59 p.m. on the Termination Date.

ARTICLE II. LEASED PREMISES AND COMMON AREAS

Section 2.1 LEASED PREMISES

The County hereby demises and leases to Contractor and Contractor hereby accepts and leases from the County, subject to all terms and conditions herein, that a portion of the Airport facilities as identified and shown in **Exhibit A Leased Premises**, having the street address of 5060 Airport Road, Midland, Virginia and more particularly described as leased spaces, in “as is” condition, except that the County agrees to bring any lease spaces to County, State, and Federal Code, if required. The Contractor has the right of ingress and egress for both vehicles and aircraft, for the conduct of Contractor's services under this Contract. The leased spaces herein are collectively referred to as the “Leased Premises.” The specific services that Contractor must provide as an SASO are listed in Section 3.3 of this Contract.

Section 2.2 COMMON AREAS

All other portions of the Airport excluding the Leased Premises, which are open to all Airport users and necessary for the use of the Airport as an airport, more particularly described as public areas, herein are collectively referred to as the “Common Areas.” The areas comprising the Common Areas under this Contract shall remain public areas throughout the entire term of this Contract and shall never become part of the Leased Premises.

Except as otherwise provided in Section 3.3, the County shall provide for the day-to-day management and maintenance of the Common Areas through the County’s Manager. The Manager has full authority from the County to oversee Airport operations, the Contractor’s services, and obligations and to enforce the County’s rules and regulations on all Airport users and the Contractor.

Section 2.3 PREMISES IN GENERAL

The use of the Common Areas shall be non-exclusive and in common with all other Airport users and County pursuant to the Rules, Regulations and Minimum Standards of the Airport currently in place and those adopted in the future, along with the rules and regulations of the Federal Aviation Administration (FAA) as set forth in Section 308 of the Federal Aviation Act of 1958 or any other applicable section of the Act or FAA rules.

The County reserves the right for its Manager, agents, employees or invitees of the

County to enter, pass through, inspect, make repairs of the Leased Premises at any time.

ARTICLE III. RIGHTS AND OBLIGATIONS OF THE CONTRACTOR

Section 3.1 CONCESSION RIGHTS GRANTED

The County grants to the Contractor the non-exclusive right, privilege, and obligation to establish, operate, conduct and perform high quality, well-managed and efficiently run aircraft maintenance services at the Airport from the Leased Premises in accordance with the terms of this Contract. Specifically, the minimum standards applicable to the SASO under this Contract are described in **Exhibit B Minimum FBO Standards** of this Contract and these standards shall act to further define the Contractor's obligations under this Contract. Provided where a higher standard is required by this Contract, this Contract shall govern. It is further provided that this Contract replaces and supersedes previous Airport operations, FBO and management agreements, including any lease terms said agreements may contain, Contractor may provide the following commercial support services at the Airport on a non-exclusive basis, as follows:

1. **Repair and Maintenance of Based and Itinerant Aircraft.** Contractor may, at its option, maintain and operate a repair facility and sell aircraft replacement parts. Contractor acknowledges that no right or privilege has been granted which would operate to prevent any person, firm or corporation operating aircraft at the Airport from performing service on its own aircraft, with its own regular employees, including maintenance and repair services. If Contractor opts to provide repair and maintenance services it shall provide:
 - A. Equipment necessary to perform maintenance service on aircraft and powerplants in accordance with FAA and FCC regulations and manufacturers' specifications for piston and jet general aviation aircraft.
 - B. Equipment or other contracts necessary to perform or have performed maintenance services on avionics and/or flight instruments, in accordance with applicable FAA regulations and manufacturers' specifications.

Section 3.2 NON-EXCLUSIVE RIGHTS

The right to establish, conduct and operate an aircraft maintenance service at the Airport and the privilege as granted under this Contract are non-exclusive. The County reserves the

right, at its sole discretion and at some time subsequent to the commencement of this Contract, to grant others certain rights and privileges with respect to the Airport which are identical in part or in whole to those granted the Contractor. However, the County does covenant and agree that:

A. It shall enforce applicable minimum performance standards, insurance requirements and prohibited uses for all aeronautical endeavors and activities conducted at the Airport; and

B. Any other operator of aeronautical endeavors or activities will not be permitted to operate on the Airport under rates or terms of condition which are more favorable than those set forth in this Contract; and

C. It will not permit the conduct of any aeronautical endeavor or activity at the Airport except under a written contract.

Section 3.3 OBLIGATIONS

5. **Assistance to Disabled Aircraft.** Contractor shall arrange for or perform removal service of disabled aircraft from the Air Operations Area for a reasonable fee chargeable to the aircraft owner. As used in this Contract, "Air Operations Area" shall mean those portions of the Airport provided and made available by County for aircraft and related operations, and shall include the Common Areas and areas directly associated therewith, which are not part of the Leased Premises. The Contractor shall provide an appropriate response to aircraft accidents/incidents at the airport. The contractor shall provide information and assistance to the Airport Manager to follow up on any accident/incident information needed for Local, State or Federal authorities.

6. **General Service Terms.** Contractor shall furnish services under this Contract on a fair, reasonable and non-discriminatory basis to all users of the Airport. Contractor shall furnish good, prompt and efficient service adequate to meet all reasonable demands for its services at the Airport. Contractor shall charge fair, reasonable, and non-discriminatory prices for each unit of sale or service; however, Contractor may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

8. **Employees Required.** Contractor shall provide, at its sole expense, a sufficient number of employees to provide effectively and efficiently the services required or authorized in this Contract.

9. **Employee Conduct.** Contractor shall control the conduct, demeanor and appearance of its employees, who shall be adequately trained by Contractor and who shall possess such

technical qualifications and hold such certificates of qualification as may be required in carrying out assigned duties. It shall be the responsibility of Contractor to maintain close supervision over its employees to assure a high standard of service to customers of Contractor.

10. Obligation to Pay Taxes and Fees. Contractor shall meet all expenses and payments in connection with the use of the Leased Premises and the rights and privileges herein granted, including taxes, permit fees, license fees and assessments lawfully levied or assessed upon the Leased Premises. Contractor may, however, at its sole expense and costs, contest any fee or assessment.

11. Obligation to Follow Applicable Rules and Regulations. Contractor shall comply with all Federal, State and Local laws, requests for assurances, rules and regulations, including those rules and regulations promulgated by County, which may apply, now or in the future, to the conduct of any business or activity in the County or at the Airport that is either granted or required under this Contract. Contractor shall keep in effect all necessary and/or required licenses or permits and post them in a prominent place. Contractor shall follow and enforce any present County adopted Airport Rules and Regulations and shall follow and enforce any new or modified Airport Rules and Regulations during the term of this Contract.

12. General Contract Terms and Contractor's Affirmative Duty. Contractor shall not commit waste or abuse the Leased Premises and shall keep said area in good condition and working order and shall surrender same upon the termination of this Contract less normal wear and tear. Appropriate action shall be determined by that of a reasonable and prudent person, but at a minimum shall include notifying the County, law enforcement and/or fire and emergency services. In the case of an emergency, such as a plane crash or fuel spill, Contractor must take appropriate action and shall take affirmative and active steps to provide assistance to those in need, to mitigate damage and to act on any emergency plan, such as the emergency fuel spill response plan. Contractor's obligation to take appropriate action with regard to the Common Areas and emergency situations shall apply equally to any corporate officer, director or employee of Contractor.

13. Vendor Requirements. It is expressly understood and agreed that in providing the required and authorized services pursuant to this Contract, Contractor shall have the right to choose, in its sole discretion, its vendors and suppliers, but Contractor agrees to comply with the MBE/WBE and Disadvantaged Business Plans adopted by the County and those requirements as

set forth in Articles XI and XIV.

14. **Subleasing.** Contractor shall not sublet any portion of the Airport or the Leased Premises without the County's express written approval.

15. **Tie-down Service and Rental.** Except as provided herein Contractor shall not rent or sublet tie-down equipment or service except for short-term (30 days) transient sublet. Contractor shall operate and maintain any transient aircraft tie-down spaces allocated to it under the terms of this contract as illustrated in ATTACHMENT A. Contractor is further allowed to store aircraft on their tie downs in extenuating circumstances such as non-paying customers. All other tie-down facilities shall be maintained and leased by the County. The County will solely provide all tie-down equipment and will rent all such service and equipment directly to users of the Airport. The County will also directly collect all rents from its tie-down rentals.

16. **Signs.** During the term of this Contract, Contractor shall have the right, at its expense, to place in or on the Leased Premises a sign or signs identifying Contractor. Said sign or signs shall be of a size, shape and design, and at a location or locations, approved by the County and shall be in conformance with all applicable ordinances of the County. If the sign is in conformance with County ordinances, the County's general approval shall not be withheld unreasonably. Notwithstanding any other provision of this Contract, said sign(s) shall remain the property of Contractor. Contractor shall remove, at its expense, all lettering, signs and placards so erected on the Leased Premises at the expiration of the term of this Contract. County shall erect, at its expense, an appropriate sign identifying the Airport property as a County facility.

18. **Use of Airport Facilities.** Contractor shall be entitled, in common with others so authorized, to use of the Common Areas and those areas that are of a public nature which are now or may hereafter be connected with or appurtenant to the Airport, including the use of landing areas, runways, taxiways, navigational aids, terminal facilities and aircraft parking areas as designated by the County.

19. **Aerial Approaches.** The Contractor shall follow the aerial approaches mandated by the County. The County reserves the right, by any means necessary, to protect the aerial approaches of the Airport against obstruction, to prevent hazard to aircraft or the community and secure the usefulness and operability of the Airport.

20. **Airport Security.** The contractor shall comply with all Local, State and National security mandates as they pertain to a SASO as part of its obligations under this contract. The

Contractor shall also assist the Manager in providing airport security surveillance and act as an additional point of contact to the Manager for customers to report suspicious activity. The contractor shall take immediate action and report all suspicious activity to the Manager and to local law enforcement officials as required under the Airport Security Plan. The Manager shall be responsible for preparing security policies.

21. **Maintenance of Leased Premises.** The Contractor shall, notwithstanding any other provision in this Contract, maintain all areas of the Airport leased from the County. Maintenance shall include, but is not limited to, all repairs not of a capital nature. For purposes of this section “capital nature” shall include but not be limited to major structural, hangar doors/locks, plumbing systems, security system, ground communications equipment, HVAC, OSHA required structure /safety systems, HVAC and electrical repairs. The County reserves the right to have the Manager to mandate that Contractor make certain repairs in order to ensure that Contractor does not operate in unsafe or substandard conditions.

24. **Reporting Requirement.** The Contractor shall report, in writing, any physical or safety issues for buildings, any suspicious activities or other maintenance, security or operational hazards to the Manager in a timely manner.

25. **Additional Obligations.** The County and the Contractor shall mutually agree to additional obligations not specifically identified in this Contract. The terms and compensation for the additional obligations shall be agreed upon prior to such obligations taking effect and must be in writing as an amendment to this Contract.

Section 3.4 PROHIBITED USES

Contractor shall not use the Leased Premises or the Common Areas, nor permit the same to be used by anyone, including but not limited to, its customers, tenants, invitees, contractors, service personnel or employees, for storage, transportation, disposal, discharge, or handling of any hazardous substances, except for the storage, transportation, disposal, discharge, or handling of such substances reasonably necessary for the conduct of SASO services outlined herein. Under no circumstances shall any use be made of, or conduct occur on, the Leased Premises or Common Areas, which use would cause any portion of the Airport to violate any state, county or environmental laws. Should Contractor cause such a violation, either directly or indirectly, Contractor shall be responsible for any fines, penalties, remediation or cleanup costs.

Further, Contractor shall not abuse, misuse or cause damage beyond normal wear and use

to the Common Areas. Contractor shall be financially liable for such abuse or damage to the Common Areas even though the County shall be responsible for general maintenance of the Common Areas.

Section 3.5 ASSIGNMENT

Contractor covenants that it shall not assign, transfer, convey, sell, mortgage, pledge, encumber or sublet any portion of the Leased Premises or any part thereof, or any rights of Contractor hereunder or allow the use of the Leased Premises by any other person without the prior written approval of the County, which consent may be withheld at the sole discretion of the County.

ARTICLE IV. RENTAL AND FEE PAYMENTS

Section 4.1 RENT

In consideration of the rights and obligations granted by this Contract, the Contractor agrees to pay the County during the term of this Contract as rent the sum of Twelve Thousand Dollars (\$12,000) annually payable on the first day of each month at One Thousand Dollars (\$1,000) per month for the Leased Premises and its rights under this contract. In year two and one half, effective July 1, 2012, and thereafter rent shall be \$1200 per month.

To the extent permitted by law the County shall treat all documents provided by the Contractor under this section as confidential and shall not release the documents to the public unless required by law.

Section 4.2 RIGHT OF AUDIT

The County reserves the right to audit Contractor's Fee Payments reports and other statements, books and records, including examination of the general ledger and all other supporting material. The purpose of such audits is to verify the financial information reported on said reports and statements and on any required financial statements under Exhibit B Minimum Standards. If the County finds that the Contractor's statement is in error, whether it has overstated or understated the financial information, by 10% or more, the Contractor shall reimburse the County for the expense of the audit. Any additional payments due as a result of

the audit shall be assessed a late fee as provided in Section 4.4. Any overpayments by Contractor shall be credited against further payments due to the County.

In the event that any dispute may arise as to the results of the audit, one half of the amount claimed by the County shall be paid forthwith and the dispute shall be submitted to a certified public accountant, agreeable to both Parties, who shall determine the rights of the Parties hereunder in conformity with GAAP. The unsuccessful party shall pay the fees due said accountant for such service, or in the event the determination is partially in favor of each party, the fee shall be borne equally by both Parties.

ARTICLE V. COUNTY OBLIGATIONS SUBJECT TO APPROPRIATIONS

Notwithstanding any other provisions of this Contract, the County shall be obligated hereunder for any cost payment or fee contained herein only as, and to the extent that, the governing body of the County shall appropriate monies for that purpose. Such failure of the governing body to so appropriate monies shall not constitute a default hereunder or entitle Contractor to any remedies.

ARTICLE VI. UTILITIES

The Contractor shall be responsible for the cost of all utilities located in the leased facility.

ARTICLE VII. INSURANCE

Prior to the time Contractor is entitled to commence any part of the project, work or services under this Contract, the Contractor shall procure, pay for and maintain at its sole expense, at least the minimum insurance coverages and limits as provided for in this Article. Said insurance shall be evidenced by delivery to the County (i) certificates of insurance, executed by a financially stable insurance carrier acceptable to the County and licensed by or permitted to write insurance by the Virginia Bureau of Insurance, listing coverages and limits, expiration dates and terms of policies and all endorsements whether or not required by the County, and listing all carriers issuing or reinsuring said policies; and (ii) a certified copy of each policy, including all endorsements. The insurance requirements shall remain in effect throughout the term of this Contract. It is expressly understood that the insurance coverage provided by the Contractor is for the Leased Premises and that the County will maintain insurance coverage for the Common Areas and the remaining public use portions of the Airport.

Throughout the term of this Contract, Contractor shall meet or exceed the following insurance requirements:

1. **General Liability to include.** Coverage shall be written on an occurrence basis. The limits of liability for sections A and B below shall not be less than one million dollars (1,000,000.00) combined single limit each occurrence and one million dollars (1,000,000.00) annual aggregate. The General Liability policy shall include:

A. Comprehensive general liability including contractual, independent contractor, incidental medical malpractice for bodily injury, property damage, advertising injury, personal injury and fire legal liability of not less than one hundred thousand dollars (\$100,000.00) per occurrence; and

B. Completed operations and products liability coverage for all products sold including fuel, aircraft, aircraft parts, aircraft maintenance and repair and non-aviation products sold; and

C. A premises medical payment coverage with limits not less than five thousand dollars (\$5,000.00); and

D. Hangerkeepers liability on maintenance hanger of not less than two hundred and fifty thousand dollars (\$250,000.00) for one aircraft and one million dollars (\$1,000,000.00) per each occurrence or disaster. The limits of this coverage shall be increased should the value of a single aircraft or all aircraft exceed the above amounts. In no case shall the amount of insurance be less than the actual values of the aircraft in the care or custody of the Contractor.

2. **Workers' Compensation** maintained to current statutory limits as required by law.

3. **Employers Liability** insurance of not less than one hundred thousand dollars (\$100,000.00) bodily injury by accident, one hundred thousand dollars (\$100,000.00) bodily injury by disease, each employee and five hundred thousand dollars (\$500,000.00) bodily injury by disease, policy limit.

4. **Comprehensive Automobile Liability** covering all vehicles used under this contract for owned, hired, and non-owned coverage with minimum limits of one million dollars (\$1,000,000.00) each for bodily injury including death, per occurrence, and property damage of

not less than five hundred thousand dollars (\$500,000.00) per occurrence. Coverage shall be on an “occurrence” basis, but combined single limit of not less than one million dollars (\$1,000,000.00) for each occurrence will be acceptable unless otherwise stated.

5. **Uninsured and Under Insured Motorist** coverage to the same limits as Comprehensive Automobile Liability insurance.

6. **Mobile Equipment Floater** insurance coverage on an “all risks” basis covering all Contractor owned or leased, computer and communications equipment under the care or custody of the Contractor. The electrical surge exclusions are to be removed.

7. **Property Insurance** coverage on an “all risks” basis covering all County owned contents in the care or custody of the provider.

8. **Employee Dishonesty** coverage in the amount of twenty-five thousand dollars (\$25,000.00) against theft or conversion of goods, money and securities.

9. **Renters Insurance.**

10. Each insurance policy shall include the following conditions by endorsement to the policy:

A. Each policy shall require, sixty days (60) prior to its expiration, cancellation, non-renewal or any material change in coverage or limits, a notice thereof shall be sent by the insurer to the County at its address of record. The Contractor shall also notify the County in a like manner within twenty-four (24) hours after receipt of any notices of expiration, cancellation, non-renewal or material change in coverage received by the Contractor from its insurer. Nothing contained herein shall absolve the Contractor of this requirement to provide notice.

B. Companies issuing the insurance shall have no claims against the County for payment of premiums or assessments or deductibles which are the sole responsibility and risk of the Contractor.

C. For the purposes of 12.B.above, the term "County" shall include Fauquier County, the Board of Supervisors, Constitutional Officers, employees, agents and representatives of Fauquier County.

D. Fauquier County will be named as additional insured and shall appear as

owners of the Airport and equipment on the following policies: (i) comprehensive general liability Airport policy, (ii) comprehensive automobile liability, (iii) aircraft liability policy, (iv) pollution liability insurance, and (v) employee dishonesty coverage. Fauquier County will be named as loss payees on the following policies: (i) mobile equipment floater, and (ii) property insurance. All tenants and subcontractors shall be required by the Contractor to comply with the requirements of this Article. All requirements of this Article shall be included in any subcontract agreements.

ARTICLE VIII. INDEMNIFICATION

1. Contractor hereby indemnifies and agrees to defend and hold harmless and shall cause its agents and subcontractors to indemnify and hold harmless COUNTY, its officers, directors, agents, servants and form and against any and all liabilities, claims, demands, suits, causes of action (whether civil or criminal), judgments, damages, losses, costs, fines and expenses (including reasonable attorney fees) of any kind or nature whatsoever, which result directly from the performance or non-performance of the responsibilities, obligations, or services of the Contractor under this Contract including, but not limited, injury to or death of any person whomsoever (excluding County employees while acting in the course of their employment), damage to or destruction of any property, real or personal (including loss of or damage to Aircraft, or any third party property), unless such loss or damage arises from the gross negligence or willful misconduct of County, its officers, directors, agents, servants, employees, or its subcontractors. The indemnification obligations of this Article shall survive this Contract for a period of two (2) years. Contractor will promptly notify County of any claim made or suit brought within the scope of this Article VIII.1 and County and/or County's insurer(s) have the right to assume and conduct the defense or to effect any settlement at their own expenses, whichever they deem proper.
2. To the extent permitted by law, the County hereby indemnifies and agrees to hold harmless and shall cause its agent and subcontractors to indemnify and hold harmless Contractor, its officers, directors, agents, servants and

employees from and against any and all liabilities, claims, demands, suits, causes of action whether civil or criminal, judgments, damages, losses, costs, fines and expenses (including reasonable attorney's fees) of any kind or nature whatsoever, which in any way arise out of the gross negligence or willful misconduct of County, its officers, directors, agents, servants, employees or its subcontractors. The indemnification obligations of this Article shall survive termination of this Contract for a period of two (2) years. County will promptly notify Contractor of any claim made or suit brought within the scope of this Article VIII.2 and Contractor and/or Contractor's insurer(s) have the right to assume and conduct the defense or to effect any settlement at their own expenses, whichever they deem proper.

3. Contractor and County agree to give the other party all assistance reasonably requested, and to put at its disposal all pertinent records, to facilitate the prosecution or defense of any claims, suits, or investigations arising out of the performance and/or non-performance of obligations under this Contract by either party.

ARTICLE IX. RIGHTS AND REMEDIES

In addition to any other rights or remedies which the County may have at law or in equity, upon the occurrence of each default, then so long as such default continues, the County may exercise any one or more of the following rights:

1. The County shall have the right to terminate this Contract by giving at least thirty (30) days written notice to the Contractor specifying the effective date of such termination, provided that Contractor's default or defaults shall not have been cured prior to the effective date of such termination set forth in said notice.
2. The County shall, to the full extent permitted by law, have the right to maintain any and all actions at law, suits in equity, or other appropriate proceedings to enforce the curing or remedying of such default.
3. In the event that performance of any of the Contractor's or County's respective obligations under this Contract other than Contractor's obligations with respect to the payment of rent, is prevented, interrupted or delayed by causes beyond its control, excepting its financial

condition, including, but not limited to, strike, riot, storm, flood, act of God, or of the public enemy, act of the government, fire, epidemic, quarantine restrictions, freight embargo, unusually severe weather, or delay of a contractor or subcontractor due to such causes, and not caused by any act or failure to act by the party thereby delayed in such performance, the date for the performance of such obligation shall become extended for a period of time equal to the number of days the performance of such obligation is so prevented, interrupted or delayed. In such case, neither the County nor the Contractor shall be liable for any cost, loss, damage, injury or liability caused, suffered or incurred by either party.

4. The respective rights and remedies of the County and the Contractor, whether provided by this lease or by law, shall be cumulative. The exercise by either Party of any one or more of such rights or remedies shall not preclude the exercise of any other right or remedy at the same or at different times for the same default or for the same failure with respect to any of the obligations under this lease, or of any of its remedies for any other default or failure by the other Party.

5. In the event that either Party to this Contract shall not take any action with respect to any failure of the other Party to observe or perform any of the terms or provisions of this Contract required to be observed or performed by such other Party, such non-action shall not be construed as a waiver of such failure of default with respect to the term or provision of this Contract not being observed or performed. It is understood and agreed that any delay by either Party to this Contract in exercising or asserting any of its rights or remedies hereunder or in instituting any actions or proceedings to assert or enforce any such rights or remedies shall not operate as a waiver of any such rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

ARTICLE X. CONTRACTOR AS INDEPENDENT CONTRACTOR

Except as otherwise provided in Paragraph 3.3(17) of this agreement in conducting its business hereunder this Contract, the Contractor acts as an independent contractor of the County and not as an agent. As an independent contractor the selection, retention, assignment, direction and payment of the Contractor's employees shall be the sole responsibility of the Contractor, and

the County shall not attempt to exercise any control over the daily performance of duties by the Contractor's employees.

ARTICLE XI. NON-DISCRIMINATION

Notwithstanding any other or inconsistent provision of this Contract, during the performance of this Contract, Contractor, for itself, personal representatives, successor in interest and assigns, as part of the consideration for this Contract, does hereby covenant and agree, as a covenant running with the land, that:

1. No person on the grounds of race, color, religion, sex, age or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in, the use of the Airport.

2. In the construction of any improvements on, over or under the Airport, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion, sex, age or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

3. Contractor shall use the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (49 CFR Part 21), and as said regulations may be amended.

4. In the event of breach of any of the above non-discrimination covenants, County shall have the right to terminate this Contract and to re-enter and repossess the Leased Premises and hold the same as if said Contract had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 have been followed and completed, including expiration of appeal rights.

ARTICLE XII. REQUIREMENTS OF THE UNITED STATES AND COMMONWEALTH OF VIRGINIA

1. This Contract shall be subject and subordinate to the provisions of any existing or future agreement between County and the United States, or any agency thereof, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of the

Airport; provided, however, that County shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Contractor in and to the Leased Premises, and to compensation by the United States for the taking thereof, interference therewith and damage thereto, caused by such agreement, or by action of County or the United States pursuant thereto.

2. This Contract shall be subject to and subordinate to the terms and conditions of any outstanding or future Grant Agreement between the County and the Commonwealth of Virginia and any agency, department or authority thereof and shall be subordinate as well to any action taken thereunder by virtue of exercisable rights granted thereunder to the Commonwealth and any agency or authority thereof.

ARTICLE XIII. DEFAULT AND TERMINATION

SECTION 13.1 TERMINATION BY CONTRACTOR

This Contract shall be subject to termination by Contractor in the event of any one or more of the following events:

1. The abandonment of the Airport as an airport or airfield.
2. The default by County in the performance of any of the terms, covenants or conditions of this Contract, and the failure of County to remedy, or undertake to remedy, to Contractor's satisfaction, such default for a period of thirty (30) days after receipt of written notice from Contractor to remedy the same.
3. Damage to or destruction of all or a material part of the Leased Premises or Airport facilities necessary to the operation of Contractor's services.
4. The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the airport, or any substantial part or parts thereof, in such a manner as to restrict substantially Contractor from conducting business operations for a period in excess of sixty (60) days.

SECTION 13.2 TERMINATION BY COUNTY

This Contract shall be subject to termination by County in the event of any one or more of the following events:

1. If Contractor fails to fulfill any obligation or duty or meet any standard imposed

by the terms of this Contract, it shall be in default. If Contractor fails to cure the default within thirty (30) days of written notice from the County that Contractor is in default, the County may, at its sole discretion, terminate this Contract. Upon termination pursuant to the provisions of this sub-paragraph, Contractor shall not be entitled to any compensation of whatever kind unless expressly agreed to in writing by the County in its sole discretion.

2. If Contractor files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Contractor and such receivership is not vacated within thirty (30) days, after the appointment of such receiver.

3. If the interest of Contractor in the demised premises is sold under execution or other legal process.

4. If Contractor supplies false or misleading information or fails to make full disclosure in documents or supporting documents submitted as required under this Contract, if Contractor's credit report contains negative information, if Contractor does not have sufficient operating capital to perform its obligations herein and cannot obtain sufficient insurances or financial sureties to protect the interests of the County, or if Contractor, its principals, directors or officers are convicted of any crime.

SECTION 13.3 TERMINATION FOR CONVENIENCE

Contractor shall have the right, at its sole discretion, to terminate this Contract at any time and for any reason provided, however, shall give the other party ninety days (90) written notice of termination. Upon expiration of the ninety (90) day notice period, this Contract and Option for Renewal shall automatically terminate and both Parties shall be released from any and all liability and future obligations hereunder. Any Rent Payments or Fee Payments previously accrued and due shall not be waived and will continue to incur late fees, as provided in this Contract, until paid. Termination for Convenience by the Contractor does not limit any of the County's remedies to collect such past due amounts.

SECTION 13.4 EXERCISE

Exercise of the rights of termination set forth in paragraphs 13.1 and 13.2 above, shall be by notice to the other Party within thirty (30) days following the event giving rise to the

termination.

SECTION 13.5 REMOVAL OF PROPERTY

Upon termination of this Contract for any reason, Contractor shall quit and surrender the Leased Premises to the County in good order and condition and, at its sole expense, shall remove from the Airport all signs, trade fixtures, furnishings, personal property, equipment and materials which Contractor owns and was permitted to install or maintain under the rights granted herein. If Contractor shall fail to do so within thirty (30) days, then County may effect such removal or restoration at Contractor's expense, and Contractor agrees to pay County such expense promptly upon receipt of a proper invoice therefore.

SECTION 13.6 CAUSES OF BREACH; WAIVER

1. Neither Party shall be held to be in breach of this Contract because of any failure to perform any of its obligations hereunder if said failure is due to any cause for which it is not responsible and over which it has no control; provided, however, that the foregoing provision shall not apply to failures by Contractor to pay fees, rents or other charges to County.

2. The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any such subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

SECTION 13.7 EMINENT DOMAIN

In the event any part or all of the Leased Premises shall be taken by any exercise of eminent domain or by any other authority of law after the execution of this Contract and before the expiration of the term hereof and any renewals, Contractor shall retain any rights it might have to recover from the condemnor the damages, including moving expenses, to any and all real and personal property Contractor has installed, placed, or stored upon the Leased Premises for its services, but the County shall retain the right to recover the value of the leasehold apart from the additions or improvements made by Contractor. In the event that the entire Leased Premises are so taken, this Contract shall terminate upon the effective date of taking. In the event that only part of the Leased Premises is taken, either Party may terminate this Contract upon written notice to the other, with this Contract terminating on the effective date of the taking; if neither Party

exercises this option to terminate, the County shall restore the remaining Leased Premises.

SECTION 13.8 LACK OF AUTHORITY

In the event that by operation of law, the County shall cease to exist, or the powers of the County shall be so construed as not to permit the County to continue to use all or any part of the Airport for the purpose for which they shall have been used, then in that event, at the option of the County, this Contract and all obligations and liability of the County of whatever kind hereunder shall terminate with respect to the Airport or part thereof.

ARTICLE XIV. MISCELLANEOUS PROVISIONS

SECTION 14.1 OPERATION OF PREMISES

Contractor agrees to operate the Leased Premises for the use and benefit of the public. Contractor agrees to furnish good, prompt, and efficient services adequate to meet all the demands for its service at the Airport within the obligations set forth in this Contract. Further, Contractor agrees to furnish said service in such a way as to meet the standards set forth in Exhibit B Minimum SASO Standards.

SECTION 14.2 AFFIRMATIVE ACTION PLAN

Contractor assures that it will undertake an affirmative action program, as required by federal law as to ensure that no person shall, on the grounds of race, creed, color, age, national origin, or sex, be excluded from participating in any employment, contracting, or leasing activities covered in 14 C.F.R. Part 152, Subpart E. Contractor assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Contractor assures that it will require that its covered organizations provide assurance to the County that they similarly will undertake affirmative action programs and that they will require assurance from their sub-organization, as required by 14 CFR Part 152, Subpart E, to the same effect.

Contractor agrees to comply with any affirmative action plan or steps for equal employment opportunity required by 14 CFR, Part 152, Subpart E, as part of the affirmative action program or by any federal, state, or local agency or court, including those resulting from a conciliation agreement, a consent decree, court order, or similar mechanism. Contractor agrees

that state or local affirmative action plan will be used in lieu of any affirmative action plan or steps required by 14 CFR, Part 152, Subpart E, only when they fully meet the standards set forth in 14 CFR 152.409. Contractor agrees to obtain a similar assurance from its covered organizations, and to cause them to require assurance of their covered sub-organizations, as required by 14 CFR, Part 152, Subpart E.

SECTION 14.3 CONTROL AND DEVELOPMENT OF THE AIRPORT

County reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Contractor, and without interference or hindrance.

County reserves the right, but shall not be obligated to Contractor, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Contractor in this regard. Contractor may make any capital improvements to the Leased Premises subject to the written approval of the County. Contractor shall be responsible for obtaining and funding any building, zoning and other government permits and applications required for such capital improvements. Any and all improvements revert to the County upon the expiration of this Contract without any reimbursement due to Contractor payable by the County for said improvements.

The Board of Supervisors of Fauquier County retains ultimate responsibility for the ownership and operation of the Airport. The Board has, by this Contract, leased the fixed base operations to Contractor and the Board of Supervisors shall retain an oversight function that is to be carried out by its Airport Committee, the County Administrator and the Manager. Each is charged with considering and making recommendations to the Board of Supervisors on all proposed capital improvements, coordinating any and all proposed actions with the FAA and/or the Virginia Department of Aviation (VDoA) as appropriate, and assuring that the Airport is operated in accordance with the conditions of this Contract, the Federal Grant Agreement, the State Grant Agreements, the Master Plan, and other pertinent laws, rules, regulations, and development plans.

During the time of war or national emergency County shall have the right to lease the landing area or any part thereof to the United States Government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the contract to the Government, shall be suspended.

SECTION 14.4 ENTIRE AGREEMENT

This Contract constitutes the entire understanding between the Parties, and as of its effective date supersedes all prior or independent agreements between the Parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both Parties.

SECTION 14.5 SEVERABILITY

If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Contract shall not be void, but the remaining provisions shall constitute in effect as nearly as possible in accordance with the original intent of the Parties.

SECTION 14.6 NOTICE

Any notice given by one Party to the other in connection with this Contract shall be in writing and shall be sent by registered mail, return receipt requested, with postage and registration fees prepaid:

- a. If to County: **Fauquier County Airport Manager
5075 Airport Road
P.O. Box 198
Midland, VA 22728**
- b. If to Contractor: **Danielle Schwarz
Chief Financial Officer
Airfield Services
5060 Airport Road
P.O. Box 95
Midland, VA 22728**

Notices shall be deemed to have been received on the date of receipt as shown on the return receipt.

SECTION 14.7 HEADINGS

The headings used in this Contract are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Contract.

SECTION 14.8 GOVERNING LAWS

This Contract is to be construed in accordance with the laws of the Commonwealth of

Virginia.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the day and year first above written.

**BOARD OF SUPERVISORS OF
FAUQUIER COUNTY**

Date: _____ by: _____

AIRFIELD SERVICES, LLC

Date: _____ by: _____
Member

EXHIBIT A LEASED PREMISES

The following is a list of the areas of the airport facilities which are hereby leased to the Contractor under the terms of this agreement:

- Heated 50' X 100' maintenance facility building with office area, parts storage area and restroom as shown on attached plat.
- Ramp and tie down spaces associated with the maintenance facility building.

SEE ATTACHED PLAT

EXHIBIT B MINIMUM SASO STANDARDS

The Aircraft Maintenance Concession (SASO) must provide commercial repair services for general aviation aircraft up to 12,500 pounds gross weight and, at a minimum, must agree to provide the following assurances, personnel, services and operating equipment:

1. **Basic Financial and Business Requirements:** The SASO shall furnish the following supporting documents upon request by the County as evidence of organizational and financial capability to provide the obligations of this Contract.

A. **Business Personnel.** The Contractor shall provide a list of key personnel along with their resumes, duties and responsibilities. The County reserves the right to request further information should it feel that pertinent information is missing.

B. **Credit Report.** A current credit report for the SASO and its principals, owners, or parent entities covering all business activities within the past ten years.

C. **Letter of Credit.** A current letter of credit in the amount of \$25,000.00 (twenty-five thousand dollars) in a form acceptable to the County and conditioned on the faithful performance of this Contract. This letter of credit, or any extension thereof, shall remain in effect for the duration of the term of this Contract.

D. **Release.** A written and signed authorization for the FAA, County and state to release information regarding the SASO and its business operations.

2. **Basic Personnel Requirements.** The SASO must, at a minimum, provide the following personnel:

A. At least one properly trained and qualified FAA licensed airframe and powerplant mechanic to perform maintenance services on general aviation

aircraft.

B. Availability of at least one qualified employee having reasonably thorough knowledge of the aircraft parts and supply business.

3. **Basic Aeronautical Services.** The SASO must, at a minimum, provide the following services:

A. **Aircraft and Powerplants maintenance.** The SASO shall be qualified to perform reasonably comprehensive maintenance services on the airframes, powerplants, and associated aircraft systems of general aviation aircraft.

B. **Aircraft Parts and Supply Sales.** The SASO shall have a general inventory of aircraft parts, supplies, and accessories for piston general aviation aircraft makes and models.

4. **Basic Insurance Requirements.** The SASO shall be required to provide the types of insurance in the limits specified by the County in this Contract.

MAINTENANCE FACILITY LEASE AREA

**5060 AIRPORT ROAD
MIDLAND, VIRGINIA**

